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Filing date: **07/08/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91166487
Party	Plaintiff Hasbro, Inc.
Correspondence Address	KIM J. LANDSMAN PATTERSON BELKNAP WEBB & TYLER LLP 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036-6710 UNITED STATES IPDOCKETING@PBWT.COM,kjlandsman@pbwt.com,cfrost@pbwt.com
Submission	Opposition/Response to Motion
Filer's Name	Kim J. Landsman
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Signature	/Kim J. Landsman/
Date	07/08/2010
Attachments	Landsman Declaration in Opp to Applicant's Motion for SJ.PDF (8 pages) (151081 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 78/359,895
Filed: January 30, 2004
For the Mark: MEMORY MAGIC in International Class 28
Published in the Official Gazette: May 10, 2005 at TM 330

HASBRO, INC.

Opposer,

v.

CREATIVE ACTION LLC,

Applicant.

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Opposition No. 91/166,487

DECLARATION OF KIM J. LANDSMAN

KIM J. LANDSMAN, under penalty of perjury, declares as follows:

1. I am a member of the firm of Patterson Belknap Webb & Tyler LLP, attorneys for Opposer Hasbro, Inc. (“Hasbro”), and am a member of the bar of the State of New York. I submit this declaration based on personal knowledge in opposition to Applicant’s motion for summary judgment. Its purpose is to provide the Board with information concerning other Hasbro litigation concerning its MEMORY[®] trademark. I was lead counsel on the cases mentioned.

2. Hasbro has sued twice for infringement of its MEMORY mark.

3. The first suit was Hasbro, Inc. v. Kellogg Company et ano., 03 Civ. 3645 (LAP), in the Southern District of New York. That case was settled and voluntarily withdrawn by Hasbro pursuant to a confidential agreement in June 2003.

4. The second suit was Hasbro, Inc. v. MGA Entertainment, Inc., C.A. No. 06-262 S, in the District of Rhode Island. In that case the defendant asserted a counterclaim that Hasbro's trademark was generic.

5. Hasbro, Inc. v. MGA Entertainment, Inc. was settled pursuant to a confidentiality agreement and a publicly filed consent judgment in 2008. The counterclaim was dismissed and judgment entered for Hasbro. A true and correct copy of that consent judgment is attached hereto as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct.

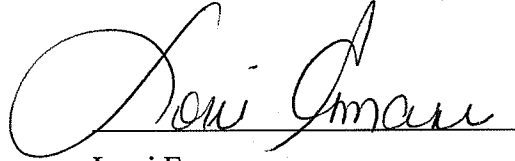
Executed on July 8, 2010, in New York, New York.



Kim J. Landsman

Electronic Mailing Certificate

I hereby certify that the **Declaration of Kim J. Landsman** is being submitted electronically through the Electronic System for the Trademark Trial and Appeal Board ("ESTTA") on this 8th day of July, 2010.

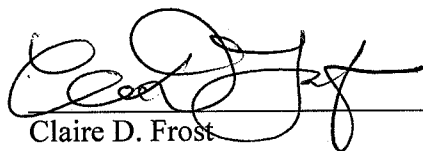
A handwritten signature in cursive script, appearing to read "Lorri Emanu", written over a horizontal line.

Lorri Emanu

Certificate of Service

I hereby certify that a copy of the **Declaration of Kim J. Landsman** was served by electronic mail on July 8th, 2010, on the following counsel for the Applicant:

Wayne D. Porter, Jr., Esq.
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Claire D. Frost

Landsman Declaration

Exhibit A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

----- X	
HASBRO, INC.,	:
	:
Plaintiff,	:
	:
- against -	:
	:
MGA ENTERTAINMENT, INC.,	:
	:
Defendant.	:
----- X	

C.A. No. 06-262S

FINAL JUDGMENT

Plaintiff Hasbro, Inc. ("Hasbro") and Defendant MGA Entertainment, Inc. ("MGA"), by their respective undersigned attorneys of record and their duly empowered officers, stipulate and agree that final judgment shall be entered in favor of Hasbro and against MGA as follows:

1. This Court has jurisdiction over the parties and over the claims asserted by Hasbro and the counterclaims asserted by MGA. Venue of this action properly lies in the District of Rhode Island.
2. This Court hereby vacates its Memorandum and Decision dated July 31, 2007, denying Hasbro's motion for a preliminary injunction. As noted in that decision, Hasbro might have at trial successfully negated MGA's attempts to prove genericness and ultimately establish its infringement claim.
3. Hasbro and MGA waive findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, except as set forth herein.

4. This Final Judgment may be entered without costs or attorneys fees as to either party and without further notice.

5. Hasbro and MGA agree not to appeal from this Final Judgment, and not to attack the validity of this Final Judgment or any provision thereof in any collateral or subsequent proceeding.

6. Hasbro is the owner of the valid, subsisting Registration Nos. 834,282 and 2,894,970 for the trademark MEMORY® for board games in the United States Patent and Trademark Office.

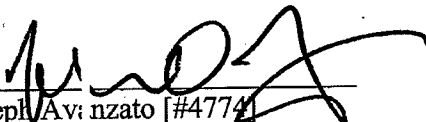
7. MGA's counterclaims filed in this action are dismissed with prejudice.

8. Pursuant to Fed. R. Civ. P. 65 and 15 U.S.C. § 1116, MGA is permanently enjoined from using the term "memory" as all or part of the name of a game, except pursuant to license from Ravensburger AG.

9. This shall constitute the final judgment in this matter, which will be closed, but the Court retains jurisdiction over the parties and this action to implement and enforce this Final Judgment.

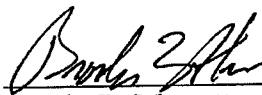
10. The following docket entries in the Court record shall be sealed: Docket Nos. 24, 25, 26, 27, 28, 29, 33, 34, 37, 38, 39, 40, 44, 45, 46, 47, 48, 50, 53, 55, 63, 64, 65, 66, 69, 70, 71, 72, 73, 75, 76, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 104, 106, 110, 111, 112, 113, 114, 115, 116, 121, 124, 126, 128, 129, 130, and 133.

Dated: October 2, 2008


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IT IS SO ORDERED on October 2, 2008.


Honorable William E. Smith
United States District Judge

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